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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,949	09/27/2005	Ingo Greuel	095309.55878US	4666
23911 7590 01/16/2007 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER MERLINO, ALYSON MARIE	
			ART UNIT 3676	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/522,949

Applicant(s)

GREUEL ET AL.

Examiner

Alyson M. Merlino

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12 and 23 is/are rejected.
- 7) ☒ Claim(s) 13-22 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2 February 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. **Claims 12 and 16 are objected** to because of the following informalities: clarity issues and grammatical errors.

- a. **In regards to claim 12, line 4** of the claim, the examiner feels that the phrase “ passage openings which contain a closing bracket retaining section of the frame” should read “passage openings which are contained in a closing bracket retaining section of the frame” since the passage openings are components of the retaining means of the frame with respect to the device.
- b. **In regards to claim 12, line 8** of the claim, the phrase “a closing bracket is retracted” should read, “the closing bracket is retracted.”
- c. **In regards to claim 12, lines 10 and 11** of the claim, the phrase “ a driving device arranged to drive the displace closing bracket carrier” should read “ a driving device arranged to displace the closing bracket carrier” in order to be grammatically correct.
- d. **In regards to claim 12, line 15** of the claim, the phrase “the bearing plate has openings congruent to the fastening openings” should be “the bearing plate has openings congruent to the passage openings” per the specification. The examiner feels that in light of the specification and the remainder of claim 12 that in order for the closing device to be installed within the frame, the bearing plate must have openings congruent to the passage openings not the fastening openings of the fixed closing bracket.

e. In regards to claim 16, line 2 of the claim, the word "rotatable" should be replaced with "rotatably" in order to be grammatically correct.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 12 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language.

Specifically, within limitation "e" of the claim, i.e. the last four lines of the claim, it is unclear whether the closing device can be installed in lieu of the fixed closing bracket or vice versa, or that the combination of the two can be installed with the option of installing them separately. The examiner feels that the closing device could be installed in lieu of the fixed closing bracket or vice versa, in view of the specification, and will examine the claim in this manner until further clarification from applicant.

Claim Rejections - 35 USC § 103

4. **Claims 12 and 24 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Weyerstall (US-5938254).

5. In regards to claim 12, Weyerstall discloses a system having a closing device (Figure 8) for drawing shut a door, flap, hood, or a lid having a frame 16. Weyerstall further discloses that the closing device has a closing bracket carrier 3 with a closing bracket 4 that is displaceable between a standby position, in which the closing bracket is extended, and a closing position, in which the closing bracket is retracted (Col. 2,

Art Unit: 3676

lines 38-51). The closing device has a driving device 1 arranged to displace the closing bracket carrier between the standby position and the closing position (Col. 7, lines 6-13). Weyerstall further discloses that the closing bracket carrier is mounted on a bearing plate 7, and the bearing plate has openings 8 congruent to passage openings within the frame for fastening of the closing device to a closing bracket retaining section (portion of frame 16 near reference character 7, Figure 7) of the frame (Col. 7, lines 37-47).

6. Although Weyerstall does not specifically disclose that the closing bracket 4 can be installed on the closing bracket retaining section of the frame, it would have been obvious to one of ordinary skill in the art at the time the invention was made to design the closing bracket to have openings for fasteners (Figure 8), and have it protruding from the closing bracket retaining section (Figure 7), allowing the bracket to be fastened to the frame of the lid using suitable fasteners, such as screws, without the use of the closing device. Furthermore, since the closing bracket is fastened to the frame using the bearing plate and conventional fasteners, such as screws, it would have been obvious to one having ordinary skill in the art to specify that the passage openings within the frame are threaded in order to accommodate the attachment of the closing device and the closing bracket of the closing device by itself.

7. **In regards to claim 23**, although Weyerstall does not specifically disclose that the closing device can be used to draw shut a motor vehicle rear lid, it would have been obvious to one of ordinary skill in the art at the time the invention was made to specify that the closing device disclosed by Weyerstall could be used on a motor vehicle rear lid as well as a vehicle door. Furthermore, it is well-known in the art that closing devices

Art Unit: 3676

can be used on vehicle doors and vehicle rear lids, since the design of the closing devices, such as the one disclosed by Weyerstall, allow them to be installed in both applications.

Allowable Subject Matter

8. **Claims 13-22 and 24 are objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AM AM
January 4, 2007

A handwritten signature in black ink, appearing to read "Brian E. Glessner", followed by a long horizontal line extending to the right.

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER